

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA

In re:)
ELECTRONIC MEANS FOR)
FILING, SIGNING, AND) General Order No. 5
VERIFICATION OF DOCUMENTS)
_____)

AMENDED AND RESTATED ORDER CONCERNING ELECTRONIC FILING

This order amends, restates and supercedes General Order 1 (99-1) entered on April 1, 1999, General Order 2 (99-2) entered on November 16, 1999, and General Order 3 entered on January 14, 2000, regarding procedures governing the filing of pleadings and other documents by electronic means. This court participates in the Electronic Case Files project (“ECF”) initiated by the Administrative Office of U. S. Courts for the purpose of developing software to manage cases and to store and to access documents electronically. The goals of this project include making detailed case information available to attorneys and the public at low cost over the Internet, thereby eliminating costs and delays associated with paper files, and enabling judges to manage caseloads and to decide controversies in a more efficient manner.

Initially, the court invited a limited number of attorneys representing debtors, creditors, trustees and other litigants in bankruptcy cases and adversary proceedings to participate in the project. As the project has matured, the court has expanded the number of participants, and the number of electronic cases has begun to increase. The court recognizes that many attorneys not involved in the ECF project may be interested in it but will be unable or unwilling, at least initially,

to participate. Attorneys are not required at present to file pleadings electronically and may file pleadings in paper form, even in ECF cases. The court has no plans to enable persons who are not attorneys to file documents electronically, so that *pro se* litigants must continue to file pleadings in paper form in all cases.

Fed. R. Civ P. 83, Fed R. Bankr. P. 5005(a)(2) and 9029 and Bankruptcy Local Rule 5005-5 authorize this court to establish practices and procedures for the filing, signing and verification of documents by electronic means. Judges of this court have reviewed proposed Administrative Procedures for Filing, Signing, and Verifying Documents by Electronic Means (the “Electronic Case Filing Procedures”), a copy which is attached to this Order as Exhibit A. The Electronic Case Filing Procedures, as limited by this Order, are consistent with and further the responsibility of the Clerk of the Court for the control of the court’s docket under Fed. R. Bank. P. 5005, including safeguarding the integrity of the court’s docket and filed documents. They also establish a procedure for registration of attorneys and for distribution of passwords that permit identification of persons filing documents in ECF cases. The Electronic Case Filing Procedures appear to provide a secure mechanism for the creation and distribution of passwords, which in turn serve as the functional equivalent of signatures of attorneys on pleadings

The Electronic Case Filing Procedures are consistent with the present fee structure adopted by the Judicial Conference of the United States pursuant to 28 U.S.C. §§ 1913, 1914, 1926 and 1930.

Based on these considerations, it is

ORDERED that:

(1) The Electronic Case Filing Procedures are hereby APPROVED.

(2) Every petition, pleading, motion and other document filed in accordance with the Electronic Case Filing Procedures shall state the name and state bar registration or identification number of each attorney filing such pleading or other document, which shall constitute a signature of each such attorney under Fed. R. Bank. P. 9011; the attorney whose password is used to file a petition, pleading, motion, or other document thereby certifies that the attorney and the attorney's law firm have authorized the filing.

(3) No attorney shall knowingly permit or cause to permit the password assigned to that attorney to be utilized by anyone other than an authorized employee of his or her law firm.

(4) No person shall knowingly utilize or cause another person to utilize the password of an attorney who has not authorized its use in accordance with this order.

(5) In all cases that have been designated as electronically filed cases that were filed prior to January 1, 2000, and in all cases filed on or after January 1, 2000, including those having paper files, the official docket maintained by the Clerk pursuant to Fed. R. Bank. P. 5003(a) shall be the electronic docket accessed via the Internet at <http://ecf.ganb.uscourts.gov/> or such other Internet address as the Clerk may designate. A case or adversary proceeding is deemed to be a fully electronic case only if the initial pleading in that case is filed electronically or otherwise ordered by the court. The Clerk shall continue to maintain paper files in any case or adversary proceeding that is not a fully electronic case.

Attorneys may file pleadings electronically in conventional cases filed on or after January 1, 2000, subject to the same the terms and conditions set forth in General Orders dealing with electronic filing, as if the case were a fully electronic case. An attorney filing a pleading electronically in a conventional case shall not file a paper copy of that pleading with the Clerk. If

an attorney files a document electronically in a conventional case or adversary proceeding filed on or after January 1, 2000, the Clerk shall print a copy of the electronically filed pleading and place it in the paper file.

For cases filed prior to January 1, 2000, in which pleadings and other documents filed with the clerk have been filed in paper form only, the official docket maintained by the Clerk pursuant to Fed. R. Bank. P. 5003(a) shall continue to be the docket maintained on the system known as “BANCAP.” At such time as the information comprising BANCAP dockets for pending cases is extracted and inserted into the electronic dockets maintained in the ECF System, however, the ECF electronic docket for each pending case filed prior to January 1, 2000 shall thereafter be the official docket.

(6) A pleading or document that a person signs and thereby verifies, certifies, declares, affirms or swears under oath or penalty of perjury concerning the truth of matters set forth in that pleading or document is hereinafter referred to as a “Verified Pleading.” Verified Pleadings include without limitation, petitions, schedules, statements of financial affairs and statement of intentions required to be filed by Fed. R. Bank. P. 1007(b), affidavits, verified complaints, answers, counterclaims, cross claims and replies, and amendments to any of the foregoing. The Clerk shall preserve and maintain in one or more files each original Verified Pleading filed conventionally.

(7) An attorney filing a Verified Pleading electronically in a text format¹ shall conform the copy filed electronically to the original Verified Pleading. Each signature shall be indicated with

¹ As used in this order the term “text format” means a format of a document initially created using word processing software. The term “image format” means a document that has been scanned to create a graphics file. Both formats can be transformed into portable document format or PDF, the format used by the ECF software for filing documents. Using Adobe System, Inc.’s Adobe Reader®, a user may view the document, whether text or image, without having the software used to create the document.

the notation “/s” above the name of the person signing, and hand-written or stamped text or notations, including without limitation dates and stamps concerning the commissions of notaries public, shall be typed on the filed copy. Seals may be noted by such expressions as “Legal Seal,” “L.S.,” “Notary Seal,” etc., as appropriate. An attorney filing a Verified Pleading, whether in text or image format, shall thereafter maintain in his or her files the original Verified Pleading in its entirety for a period ending four (4) years after the case or proceeding in which the Verified Pleading is filed is closed. The filing of a Verified Pleading constitutes a representation by the attorney who files it that the attorney has in his or her possession at the time of filing the fully executed original Verified Pleading.

(8) Any document to be filed electronically as an exhibit to an electronically filed pleading shall be redacted so as to include in the exhibit only those portions of the document germane to the matter under consideration by the court, unless the entire exhibit was converted to PDF format from a text file, as contrasted to an image file. An excerpted exhibit must be clearly and prominently identified as an excerpt, and the attorney filing the excerpted exhibit must make available the complete exhibit immediately upon request by a party or the court. Whenever possible, the relevant portions of exhibits, whether filed conventionally or in electronic form as image files, should be included as text in the pleading to which exhibits are attached. Persons filing excerpts of exhibits pursuant to this order do so without prejudice to the right to file with the court at any time additional exhibits or complete exhibits. Opposing parties may file additional excerpts that they believe are germane.

(9) Each person electronically filing a pleading or other document in accordance

with the Electronic Case Filing Procedures shall serve that pleading or document in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Procedure, except as follows. A person may electronically serve on any Approved Participant, as defined in the Electronic Case Filing Procedures, a “Notice of Electronic Filing” in the form set forth in section II.B.1 of those Procedures. Such electronic service of the Notice of Electronic Filing of a pleading, order, decree, judgment or other document shall constitute service of that pleading, order, decree, judgment or other document, so that the filing party shall not be required to serve conventionally the filed document to which the Notice of Electronic Filing refers. A certificate of service may be filed electronically and may be appended to the pleading to which it refers.

(10) Notwithstanding the foregoing, notices mandated by Fed. R. Bank. P. 2002 (a)(1), (4), (5), (7) and (8) and (b)(1) and (2) shall be served in an ECF case by paper copies in accordance with those rules, unless a party in interest requests pursuant to Fed. R. Bank. P. 9036 that such notice be given electronically. Notice given pursuant to Fed. R. Bank. P. 2002(a)(2), (3) and (6) may be served in accordance with paragraph 9 above of this Order. In accepting passwords from the Court, participants in the ECF System waive the right to receive notice and service by mail, facsimile transmission or by hand delivery, including notices described in Fed. R. Bank. P. 2002(a)(2), (3) and (6). If a recipient requests electronic notice pursuant to Fed. R. Bank. P. 9036, that notice may be served in accordance with paragraph 9 above of this Order.

(11) Any order filed electronically and hence without the original signature of a judge shall have the same force and effect as if the judge had affixed his or her signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

(12) A trustee may file a report of no distribution by making a docket entry without filing a pleading containing the report. Such a docket entry constitutes a Verified Pleading as that term is defined in paragraph 7 above, provided that a trustee filing a report of no distribution through a docket entry without filing an accompanying document is not required to maintain a physical original of the report for the obvious reason that none would exist.

Dated: January 26, 2000

/s/ STACEY W. COTTON
CHIEF UNITED STATES BANKRUPTCY JUDGE
FOR THE COURT

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA**

Electronic Case Filing Procedures

January 26, 2000

Exhibit A to General Order No. 5

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ADMINISTRATIVE PROCEDURES

I. REGISTRATION FOR THE SYSTEM (“ECF”)

A. Designation of Cases. The Court shall designate which cases or types of cases shall be assigned to the Electronic Case Filing System.

B. Registration.

1. The ability to file documents electronically in ECF cases requires a password issued by the Clerk. To register as a participant and apply for a password, an attorney should complete and submit the registration form appended hereto as Attachment 1 to the Electronic Case Filing System, Clerk’s Office, United States Bankruptcy Court, Northern District of Georgia, 75 Spring Street, S.W., Room 1340, Atlanta, Georgia 30303, Attn: W. Yvonne Evans, Clerk of Court. The court may require attorneys to resubmit an executed registration form from time to time as terms and conditions for using the Electronic Case Filing System change.

2. Each attorney approved by the Clerk as a participant in the ECF system (“Approved Participant”) will receive a notice from the Clerk to retrieve from the Clerk’s Office an envelope containing an assigned password. Only the applicant or a representative authorized in writing by the applicant on the letterhead of the applicant’s firm may retrieve the envelope. The Clerk will mail the password to the applicant upon written request.

3. Attorneys may find it desirable to change their court-assigned passwords periodically, which they may do by mailing a request to the Clerk. Any attorney having reason to believe that the security of an existing password has been compromised or that a threat to the court’s computer system may exist shall immediately notify the Clerk of Court, Chief Deputy Clerk or Systems

Department Manager by telephone and confirm the notice in writing, so as to prevent possible unauthorized access to the court's computer system.

II. ELECTRONIC FILING AND SERVICE OF DOCUMENTS

A. Filing.

1. Approved Participants should endeavor to file all pleadings and documents electronically in ECF cases, except as expressly provided in section III.A. below.

2. All documents that form part of a pleading and are being filed at the same time and by the same party may be electronically filed together under one docket number, e.g., a motion with a supporting affidavit and memorandum of law.

3. As provided in paragraph 10 of the General Order 5 dated January 26, 2000, notices mandated by Fed. R. Bankr. P. 2002 (a)(1), (4), (5), (7) and (8) and (b)(1) and (2) must be prepared in paper form and served in accordance with those rules, provided that service may be made electronically on a person who has requested electronic notice pursuant to Fed. R. Bankr. P. 9036. Notice pursuant to Fed. R. Bankr. P. 2002 (a)(2), (3) and (6) may be served in accordance with section II.B.1 hereof. If the recipient requests electronic notice pursuant to Fed. R. Bankr. P. 9036, it may be served in accordance with section II.B.1.

B. Service.

1. Immediately after filing a pleading or other document electronically, an attorney shall serve a "Notice of Electronic Filing" on each Approved Participant entitled to service by hand, facsimile or e-mail in the first instance, or by overnight mail, if hand, facsimile or e-mail service is impracticable, in addition to serving conventionally paper copies of the document on all parties in interest entitled to service not represented by an Approved Participant. A Notice of Electronic

Filing shall include the name of the case in which the document has been filed, the case number, a description of the type of document (e.g., ABC Corp.'s motion for stay relief), the docket number and the date and time that the document was filed.

2. Except as provided in section III.B. below, for paper documents, the filing party shall not be required to serve any pleading or other documents (other than a "Notice of Electronic Filing") on any party entitled to electronic notice.

C. Signatures; Affidavits of Service.

1. Pleadings such as petitions, lists, schedules, statements, and amendments thereto that are required to be verified under Fed. R. Bankr. P. 1008 or to contain an unsworn declaration as provided in 28 U.S.C. Section 1746, and all affidavits or other pleadings in which a person verifies, certifies, affirms or swears under oath or penalty of perjury concerning the truth of matters set forth in that pleading or document ("Verified Pleadings") may be filed electronically. An attorney filing a Verified Pleading electronically in a text format¹ shall conform the filed copy to the original Verified Pleading. Each signature shall be indicated with the notation "/s" above the typed name of the person signing, and hand-written or stamped text or notations, including without limitation dates and stamps concerning the commissions of notaries public, shall be typed on the filed copy. Seals may be noted by such expressions as "Legal Seal," "L.S.," "Notary Seal," etc., as appropriate. An attorney filing a Verified Pleading, whether in text or image format, shall thereafter maintain in his or her files the original Verified Pleading in its entirety for a period

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ending four (4) years after the case or proceeding in which the Verified Pleading is filed is closed. The filing of a Verified Pleading constitutes a representation by the attorney who files it that the attorney has in his or her possession at the time of filing the fully executed original Verified Pleading.

2. A pleading or other document that is not a Verified Pleading and that is filed electronically in a text format, as contrasted with an image format, shall indicate conformed signatures unless an image file showing original signatures is appended to the text file. A conformed signature should be indicated as follows:

s/ Jane Doe
Jane Doe, Counsel for
XYZ Corp., etc.

Further, a date stated on each such pleading or other document shall be complete, e.g., January 26, 2000, and not January , 2000. An attorney filing a pleading electronically should include on that pleading, the attorney's name, mailing address, e-mail address and voice telephone number.

D. Fees Payable to the Clerk. For filings that require a fee, application for authorization of credit card payment shall be made with the financial officer of the Office of the Clerk.

E. Orders. A party shall present a proposed order, including a consent order, by e-mail or on diskette in WordPerfect 6.1 or higher format or in ASCII format, as well as in paper form if required by the judge. As it would in a paper form, a proposed order submitted electronically must state the identity of the attorney who prepared it and, if appropriate, must indicate consents or "no opposition" by attorneys for other parties. For each attorney identified, the following information should be stated: the state bar number, the name of the client represented, the mailing address, the e-mail address, if any, the voice telephone number, and an indication of whether the attorney

authorized the person presenting the proposed order to state that the attorney has consented to or has no opposition to the proposed order. Alternatively, attorneys submitting proposed consent or no-opposition orders may attach to the text version an image file of the signature page reflecting the consent or lack of opposition of attorneys. Any order filed electronically by a judge shall have the same force and effect as if the judge had affixed his or her signature to a paper copy.

F. Training Materials. The Office of the Clerk has prepared training materials, including an Electronic Filing System Users Manual, which may be updated from time to time. Interested persons may obtain copies of the latest materials from the Clerk's Office or on the court's web site.

G. Title of Docket Entries. The person electronically filing a pleading or other document shall be responsible for designating the appropriate title or titles for the document using one of the categories shown in the Electronic Filing System Users Manual.

III. Conventional Filing of Documents

A. Documents Filed Under Seal. Any document to be filed under seal shall be filed conventionally and not electronically unless specifically authorized by the Court. A motion to file documents under seal, however, may be filed electronically. The order of the Court authorizing the filing of such document(s) under seal may also be filed electronically. The party filing sealed documents shall attach a paper copy of the order directing the documents to be sealed and shall deliver them by hand to the Clerk of Court.

B. Service of Conventional Filings. Pleadings or other documents that are filed conventionally rather than electronically shall be served in the manner provided for in, and on those parties entitled to notice in accordance with, the Federal Rules of Bankruptcy Procedure and the Local Rules of Bankruptcy Procedures except as otherwise provided by order of the Court.

IV. PUBLIC ACCESS TO THE SYSTEM DOCKET

A. Internet Access Without a Password. Any person or organization other than those referred to in section I.B.1. may access the ECF database at the Court's Internet site at <http://ecf.ganb.uscourts.gov/> or such other address as the Clerk may designate to view, copy and print docket sheets and filed documents in ECF cases. Internet access to individual case records in the ECF system is currently available at no charge. Nonetheless, at its September 1998 meeting, the Judicial Conference of the United States approved a user fee for accessing detailed case information, excluding calendars and other general information. As yet, no date has been set to begin making such charges. The appropriate charge system will be implemented when it becomes available.

B. Public Access at the Court. In addition to Internet access, the public may view electronically filed documents and dockets in ECF cases at the Clerk's Office during regular business hours.

C. Conventional Copies and Certified Copies. Conventional copies and certified copies of the electronically filed documents may be obtained at the Office of the Clerk during business hours Monday through Friday. The fee for copying and certification will comply with 28 U.S.C. Section 1930.

Attachment 1

for

Electronic Case Filing Procedures

ATTORNEY REGISTRATION FORM

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ELECTRONIC CASE FILING SYSTEM
ATTORNEY REGISTRATION FORM
(Live System)**

To register for an account on the Court's Electronic Filing System, please provide the information requested below.

First/Middle/Last Name: _____

Social Security Number: _____

Bar ID # and State: _____

Law Firm Name: _____

Firm Address: _____

Firm Federal Tax ID #: _____

Voice Phone Number: _____

FAX Phone Number: _____

Internet E-Mail Address: _____

By submitting this registration form, the undersigned agrees to abide by the following rules:

1) Rule 9011 of the Federal Rules of Bankruptcy Procedure requires that every pleading, motion, and other paper (except lists, schedules, statements or amendments thereto) filed with the court be signed by at least one attorney of record or, if the party is not represented by an attorney, by the party. The unique password issued to an attorney registered to use the ECF system identifies that attorney to the court each time that the attorney logs on to the ECF system. The use of an attorney's password serves as and constitutes the signature of the attorney for purposes of Bankruptcy Rule 9011 on any document or pleading filed electronically using that attorney's password. Therefore, an attorney must protect and secure the password issued by the court. If any reason exists to suspect the password has been compromised in any way, it is the duty and responsibility of

the attorney to notify the court immediately. The court will thereafter immediately delete that password from the electronic filing system and issue a new password.

2) The undersigned has read General Order 5, including attachments, and understands the obligations imposed by paragraphs 6 and 7 in regard to Verified Pleadings, including the obligation to maintain in the Undersigned's possession a complete original of every electronically filed Verified Pleading for a period of four (4) years following the closing of the case in which the Verified Pleading is filed. The electronic filing of any Verified Pleading constitutes the filing attorney's signature and certification that at the time of filing, the attorney has possession of the complete Verified Pleading bearing the original signature of each person who affirmed or swore to the truth of matters set forth in the Verified Pleading and the original signature of each person who administered an oath, such as a notary public.

3) By this registration, the undersigned attorney waives conventional service of documents, including notice under Fed. R. Bankr. P. 2002 and service under Fed. R. Bankr. P. 7004 except as provided in General Order 5, and also agrees to accept service of notice of electronic filing of documents on behalf of the undersigned's client by electronic service as good and sufficient service.

Applicant's Signature

Please return to: W. Yvonne Evans, Clerk of Court
United States Bankruptcy Court
1340 U.S. Courthouse
75 Spring Street, S.W.
Atlanta, Georgia 30303

1/26/2000